

Memorandum

To: Governor's Energy Consumer Protection Task Force

From: PSC staff

Date: October 8, 2003

Re: Municipal loads

The Committee is interested in evaluating the adequacy of existing rules and statutes to protect default supply customers. Specifically, the Committee is interested in how customer choice could impact NorthWestern Energy's default supply portfolio and, under current law and PSC rules, how aggregated municipal loads would be treated if that load wished or was forced to return to default supply service.

Several provisions in House Bill 509 (2003), which modified the Electric Utility Industry Restructuring and Customer Choice Act (Act), provide the PSC ample authority to prevent customer choice from impacting the default portfolio and small customers' default supply rates (see attachment 1). Section 69-8-201 (7) of the Act allows the PSC to create different categories of default service customers and to allocate default portfolio costs and design rates based on analyses of the sources of default portfolio costs (e.g., returning customer loads requiring incremental power purchases). Section 69-8-201 (5) of the Act requires the PSC to adopt rules and establish rates and fees that protect small customers from higher or more unstable default service rates than would otherwise exist if customer choice were not offered. Section 69-8-201 (4) creates a specific customer class for Public Agencies. Public Agency customers may enter into power supply contracts with the default supplier for all or a part of their loads, but the contracts must recognize the Commission's obligation to protect small customers from higher or more unstable rates than would otherwise occur if customer choice was not available. Municipal loads fall within the scope of Public Agency as defined in § 18-1-101, MCA.

a different default supply rate than other residents who never left in order to recover any incremental costs associated returning to default service.

EXAMPLE 3: A municipal government obtains a retail supplier license from the PSC for purposes of aggregating the municipal government's own accounts (e.g., street lighting, water treatment, office space). As a retail supplier the municipal government enters a contract with a wholesale power marketer to obtain electricity supplies. The wholesale marketer breaches its contract without notice and fails to deliver contracted electricity. The distribution utility will provide emergency service for up to 21 days – there will be no loss of electrical power.² If the municipal government does not obtain a replacement wholesale supplier, the municipal government's accounts will automatically return to default service. The municipal government is responsible for paying the full cost of emergency service and, as the licensed retail supplier, could be assessed a penalty by the Commission for failing to deliver scheduled electricity to the utility's grid. In addition, the returning municipal loads would be required to enter a contract with the default supplier specifying a term of service and/or would be assessed a rate that recovers any incremental default supply costs caused by their return.

Conclusion

An overarching principle of the Act, as modified by SB 509, is that small default supply customers must be protected from higher or more unstable rates as a result of customer choice. The rulemaking and ratemaking tools available to the PSC under the Act and other governing statutes are reasonable and sufficient to achieve this protection.

² The provision of emergency service might not be necessary in all situations. For example, in June 2003, Northwestern Energy Marketing (a wholesale marketer) defaulted on a contract with the Montana League of Cities and Towns and Montana School Boards Association (both licensed retail suppliers). The retail customers immediately became default service customers of NorthWestern Energy, in spite of a 10 day notice requirement in then existing rules. In that instance, no emergency supply service was provided. That process was facilitated by advanced warning of the contract breach.

Montana Code Annotated 2003

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69-8-201. Public utility -- transition to customer choice -- options and requirements -- waiver.

(1) Before July 1, 2027, all public utility customers of a public utility that has restructured in accordance with this chapter must have the opportunity to choose an electricity supplier other than the default supplier.

(2) (a) A small customer of a public utility that has restructured in accordance with this chapter:

(i) must receive default supply services from the default supplier as provided in this chapter; and

(ii) may purchase electricity supply services through a commission-approved small customer electricity supply program as provided in this section.

(b) A small customer receiving electricity from a licensed supplier prior to July 1, 2003, may continue to receive electricity supply from a supplier other than the default supplier.

(c) Customers that represent separately metered services with an estimated average monthly demand of less than 50 kilowatts related to the same individual customer referred to in subsection (3) or (4) may be combined with the respective eligible customer load or loads.

(3) (a) Subject to subsection (3)(b), a customer of a public utility that has restructured in accordance with this chapter and that has an individual load with an average monthly demand of less than 5,000 kilowatts but greater than or equal to 50 kilowatts may choose an electricity supplier.

(b) The total average monthly billing demand for all customers that choose an electricity supplier pursuant to subsection (3)(a) in each calendar year may not exceed 20,000 kilowatts.

(c) A customer referred to in subsection (3)(a) receiving electricity from a licensed supplier prior to July 1, 2003, may continue to receive electricity supply from a supplier other than the default supplier.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a customer of a utility that has restructured in accordance with this chapter and that has an individual load with an average monthly demand of greater than or equal to 5,000 kilowatts shall purchase its entire electricity supply from the competitive marketplace.

(b) A customer referred to in subsection (4)(a) that is receiving its electricity supply from the competitive marketplace may make a one-time election to enter into a permanent power supply contract with the default supplier for service on or after July 1, 2004. These contracts must include the applicable provisions established by the commission pursuant to subsection (5). This election must be submitted to the commission in writing no later than December 31, 2003.

(c) A new customer with an estimated average monthly demand of greater than or equal to 5,000 kilowatts may enter into a power supply contract with the default supplier in order to receive default supply service. The new customer's election of an electricity supplier must be submitted in writing to the commission at least 90 days before delivery of electricity. These contracts must include the applicable provisions established by the commission pursuant to subsection (5).

(d) A customer referred to in subsection (4)(a) that was receiving electricity from the default supplier on July 1, 2003, may continue to receive electricity from the default supplier.

(e) A customer referred to in subsection (4)(a) that is a public agency, as defined in 18-1-101, may enter into a power supply contract with the default supplier for default supply service for all or part of the public agency's load. These contracts must include the applicable provisions established by the commission pursuant to subsection (5).

(5) The commission shall adopt rules and establish rates and fees to enable customers to have reasonable opportunities to choose an electricity supplier or to receive default supply service in accordance with subsections (2) through (4), while providing protection for small customers from higher or more unstable default supply service rates than would otherwise result if these choices were not

offered.

(6) An electricity supplier licensed by the commission to offer electricity supply service to small customers may petition the commission for the opportunity to provide electricity to small customers. The total average monthly demand for all customers referred to in subsection (2)(a) in each calendar year that receive service from an electricity supplier that is not the default supplier may not exceed 10,000 kilowatts. The commission shall ensure that electricity supply service provided pursuant to this subsection is consistent with the requirements in subsection (5) and the provision of default supply service pursuant to this chapter.

(7) Based on an analysis of the sources of costs of providing default supply service, the commission may:

(a) establish different categories of default supply service customers to assist with the implementation of this section;

(b) allocate default supply costs; and

(c) develop default supply rates.

(8) (a) Except as provided in subsection (8)(b), a customer receiving default supply service may not resell the electricity.

(b) A default supplier may implement demand reduction programs that reward customers for reducing demand under terms established by the commission.

(9) (a) Except as provided in 69-5-101, 69-5-102, 69-5-104 through 69-5-112, and 69-8-402, a public utility currently doing business in Montana as part of a single integrated multistate operation, no portion of which lies within the basin of the Columbia River, may defer compliance with this chapter until a time that the public utility can reasonably implement customer choice in the state of the public utility's primary service territory.

(b) To the extent that a public utility described in subsection (9)(a) becomes the successor in interest of another public utility that has restructured in accordance with this chapter, it shall assume responsibility only for the applicable transition plan of the acquired public utility.

(10) Upon a request from a public utility with fewer than 50 customers, the commission shall waive compliance with the requirements of 69-8-104, 69-8-202 through 69-8-204, 69-8-208 through 69-8-211, 69-8-402, and this section.

History: En. Sec. 5, Ch. 505, L. 1997; amd. Sec. 30, Ch. 575, L. 1999; amd. Sec. 1, Ch. 175, L. 2001; amd. Sec. 10, Ch. 577, L. 2001 (voided by I.R. No. 117, Nov. 5, 2002); amd. Sec. 3, Ch. 584, L. 2001; amd. Sec. 8, Ch. 565, L. 2003.

Provided by Montana Legislative Services



ELECTRIC TARIFF

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Canceling	<u>Original</u>	Revised	Sheet No.	64.1

Schedule No. ECCGP-1

ELECTRIC CUSTOMER CHOICE GUIDELINES AND PROCEDURES

APPLICABILITY: Applicable to all retail electric customers served by or connected to the Utility's delivery system.

PURPOSE: This schedule establishes the fundamental customer choice guidelines and procedures for the Utility.

CUSTOMER CHOICE GUIDELINES AND PROCEDURES

- 1) Definitions:
 - a) Billing Demand: As applicable, for purposes of these customer choice guidelines, the total metered demand for all separately metered accounts of an individual customer.
 - b) Emergency Service: The electricity supply and related services provided by the Utility to a choice customer whose competitive electric supplier fails to schedule and deliver the choice customer's alternative electricity supply, or schedules, but fails to deliver the choice customer's alternative electricity supply.
 - c) Individual Customer: For purposes of these customer choice guidelines, a person or entity separately identified in the Utility's billing system as the person or entity to which bills will be sent for service to one or more metered or unmetered accounts.
 - d) Large Customer: For purposes of this tariff schedule, an existing retail customer with an actual average monthly Billing Demand for the previous calendar year, or a new customer's estimated annual average monthly demand equal to or greater than 5,000 kilowatts.
 - e) Market Value: The actual value realized from acquiring a customer's replacement energy or selling a customer's surplus energy in a commercially responsible manner, including any related transmission costs.
 - f) Mid-Sized Customer: An existing retail customer with an actual average monthly Billing Demand for the previous calendar year, or a new customer's estimated annual average monthly demand, of at least 50 kilowatts and less than 5,000 kilowatts.
 - g) Non-Recoverable Default Supply Costs: A customer's contract load for the remaining contract term times the applicable default supply rate less the market value of released energy up to the level of the default supply rate, plus the customer's share of any positive or negative deferred account balance in the then current tracking period.
 - h) Small Customer: A retail customer with an actual average monthly Billing Demand for the previous calendar year, or a new customer's estimated annual average demand, less than 50 kilowatts.
- 2) All retail customers can choose their supplier of electricity according to the terms and procedures provided in this Schedule and, if applicable, a written contract with the utility. All choice customers may also return to Default Supply service in accordance with the terms of this Schedule.

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- 3) The customer choice transition period is July 1, 2002 through June 30, 2027.
- 4) Small Customer Choice:
- a) Small Customers may receive electricity supply service from a licensed electricity supplier through a commission approved Small Customer aggregation program.
 - b) In each consecutive calendar year, Small Customers may choose electricity suppliers until the total average monthly Billing Demand associated with all Small Customer choices in that year reaches 10,000 kilowatts.
 - c) A Small Customer that is not eligible to participate in a Small Customer aggregation program because of the restriction in 4) b) must reapply to participate in the following year.
 - d) The Company will publish information regarding opportunities to participate in Small Customer aggregation programs, including the remaining average annual kilowatt balance available.
 - e) Small Customers electing to participate in a Small Customer aggregation program must notify the Utility in writing (including e-mail and fax) at least 10 business days in advance. A Small Customer may provide written notice through his/her selected supplier.
 - f) Small Customers that elect to return to default supply service must notify the Utility in writing (including e-mail and fax) at least 10 business days in advance. Returning customers must receive default supply service for a period of one year in order to become eligible to again participate in a Small Customer aggregation program.
 - g) Small Customers receiving electricity from a licensed supplier prior to July 1, 2003 may continue to receive electricity from a supplier other than the default supplier.
- 5) Mid-Sized Customer Choice:
- a) In each consecutive calendar year, Mid-Sized Customers may choose electricity suppliers until the total average monthly Billing Demand associated with all Mid-Sized Customer choices in that year reaches 20,000 kilowatts.
 - b) A Mid-Sized Customer that is not eligible to choose a competitive supplier because of the restriction in 5) a) must reapply to participate in the following year.
 - c) The Utility will publish information regarding opportunities for Mid-Sized Customers to choose competitive suppliers, including the remaining average annual kilowatt balance available.
 - d) Mid-Sized Customers electing to choose a competitive supplier must notify the Utility in writing (including e-mail and fax) at least 10 business days in advance. A Mid-Sized Customer may provide written notice through a selected supplier.
 - e) Except as provided under Emergency Supply, after electing to choose a competitive supplier, a Mid-Sized Customer may not receive default supply service for one year.
 - f) Mid-Sized Customers that elect to return to default supply service must notify the Utility in writing (including e-mail and fax) at least 10 business days in advance. Returning customers

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must receive default supply service for a period of one year in order to become eligible to again choose a competitive supplier.

- g) A new Mid-Sized Customer, or an existing Mid-Sized Customer with new, separately metered loads, may choose competitive supply service for new loads. Such choices are not constrained by provisions of 5) a).
- h) Mid-Sized Customers receiving electricity from a licensed supplier prior to July 1, 2003 may continue to receive electricity from a supplier other than the default supplier.

6) Large Customer Choice:

- a) All Large Customers receiving default supply service must enter a written contract with the Utility that specifies the customer's load requirements and the term of service. In the event that a Large Customer fails to take the default supply service for the contracted term, the contract may require the customer to be financially responsible for all non-recoverable default supply costs.
- b) A Large Customer that is receiving electricity supply service from a competitive supplier may elect to permanently receive default supply service beginning July 1, 2004. Large Customers electing this option must notify the Commission and the Utility in writing by December 31, 2003.
- c) A new Large Customer may elect to permanently receive default supply service from the default supplier. New Large Customers electing this option must notify the Commission and the Utility in writing at least 90 days before delivery of electricity. A new Large Customer that does not elect to permanently receive default supply service must permanently receive market supply service.
- d) A Large Customer receiving electricity supply from the Utility on July 1, 2003, may continue to receive default supply service from the Utility or may choose to be permanently served by the retail market. A Large Customer electing to be permanently served by the retail market must notify the Commission and the Utility in writing at least 90 days before the delivery of any market supplies.
- e) A Large Customer shall:
 - i) Notify the Default Supplier of their expected load requirements for the annual period beginning July 1, prior to May 1 of each year and at least 6 months in advance of any planned 10% increase or decrease in its load requirements greater than 2 MW.
 - ii) Notify the Default Supplier about normal scheduled operation outages and/or startups that increase or decrease load requirements greater than 2 MW within 7 days of such events, and within 30 days if greater than plus or minus 10 MW.
 - iii) Notify the Default Supplier about forced outages and returns immediately.

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- 7) Public Agency Customer Choice:
- a) A customer that is a public agency as defined in Section 18-1-101, MCA, may elect to have all or a portion of its load requirements served by the default supplier or market supplies.
 - b) A customer that is a public agency and that elects to receive default supply service for all or a portion of its load requirements must enter into a written contract with the default supplier that specifies the customer's default supply load requirements and term of service. In the event that a public agency customer fails to take the default supply service for the contracted term, the contract may require the customer to be financially responsible for all non-recoverable default supply costs.
 - c) Public agency customers electing market supplies must notify the Utility in writing (including e-mail and fax) at least 30 business days in advance of any market supply deliveries. A public agency customer may provide written notice through a selected supplier.
 - d) Except as provided under Emergency Supply, after electing market supplies, a public agency customer may not purchase default supply service for the same load for one year.
 - e) Public agency customers that elect to return to default supply service must notify the Utility in writing (including e-mail and fax) at least 30 business days in advance any default supply deliveries. A public agency's returning load must receive default supply service for a period of one year in order to become eligible to again choose a competitive supplier.
- 8) Groups of existing or new Small and Mid-Size Customers whose combined annual average monthly demand is greater than 5,000 kW, and existing and new Large Customers receiving supply from a licensed supplier, that elect to return to or leave default supply service, may be assessed a supply rate that ensures that small default supply customers do not experience higher or more unstable default supply rates as a result of the customers' elections. Upon notification by a group of existing or new Small and Mid-Size Customers whose combined annual average monthly demand is greater than 5,000 kW, or an existing or new Large Customer, electing to return to or leave default supply service, the Utility shall prepare and submit to the Commission, an analysis that determines the incremental impact of the customers' choices on the annual average default supply unit costs. The Utility shall propose rates, rate schedules, fees or rate surcharges as necessary to protect small default supply customers. In these instances, customer(s) or their licensed supplier shall be required to notify the Commission and Utility within 90 days of the returning to default supply service.
- 9) The Utility may contract with large and public agency customers to temporarily reduce their loads and use and/or sell the freed-up electricity. All applicable inter-related operational, supply and transmission aspects of such an arrangement will be considered. In such instances, large and public agency customers shall receive one half of the established value over and above the customer's applicable default supply cost for the freed-up electricity, less any related transmission and ancillary service costs.

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- 10) The Default Supplier shall provide Emergency Service to all customers, regardless of size, subject to the following:
- a) The Default Supplier is not required to purchase any reserve supply of electricity to fulfill this obligation.
 - b) The Emergency Service may automatically be provided as part of the Default Supplier's agreement under its transmission service provider's FERC Open Access Transmission Tariff Energy Imbalance provisions for up to 5 calendar days.
 - c) When the Default Supplier acts as an emergency supplier of electricity and related services to customers, the electricity supplier that should have provided the electricity shall reimburse the Default Supplier at the higher of a multiple of the customer's contract rate with the electricity supplier or a multiple of the then existing market rate for that electricity. The commission shall determine and authorize the multiple used. The market rate is the highest published rate for electricity purchased within the local control area at the time that the Default Supplier provided the electricity supply.
 - d) If the customer's competitive electric supplier has not reimbursed the Default Supplier as provided in 9 c) above within 60 days, the Emergency Service shall be fully charged to the customer as specified in the Electric Emergency Supply Service Schedule.
 - e) Customers taking Emergency Service shall be required to choose a competitive electric supplier or automatically take default supply service within 21 business days. During this time period, the customer should remain in regular contact with the Default Supplier regarding the customers pending power supply decision.
 - f) The Default Supplier shall provide timely information of its Emergency Service costs to the applicable customer. The customer may elect to forego or reduce its load by giving written notice (including e-mail or fax) to the Default Supplier.
 - g) The Emergency Service customer shall be reimbursed with any recovery obtained by the default supplier from the non-performing competitive electric supplier, in c) above, up to the level of the Emergency Service costs. The Emergency Service customer will be responsible for providing the necessary information to make this determination.
 - h) All default supply customers shall be credited with any excess recovery obtained by the Default Supplier from the non-performing competitive electric supplier, in c) above, less any customer reimbursement in g) above, as part of the next applicable tracking period's rate adjustment.

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- 11) The metering requirements for choice customers are provided subject to the following:
- a) A customer whose previous calendar year's average monthly billing demand is less than 500 kW shall not require any special metering and the customers' scheduling and balancing data will be provided through load profiling.
 - b) A customer, or the customer's competitive electric supplier on its behalf, may request the Utility to install an interval meter for a service that is less than 500 kW. The Utility will install the interval meter for the service and bill the customer for the cost of the meter and its installation. The Utility will also bill the customer or its competitive electric supplier a monthly fee to cover the costs related to data collection, processing, and reporting.
 - c) The customer will be required to provide and maintain a phone connection to the interval meter. In this case, the actual hourly interval data will be used for load balancing.
 - d) A customer whose previous calendar year's monthly average billing demand is 500 kW or greater shall use interval metering. The schedule and balancing data will exist hourly. Customer will be required to provide and maintain a phone connection to the interval meter. A customer's un-metered service kWhs will be equal to operating hours per month times the load in watts, divided by 1000. The customer's scheduling and balancing data will be provided through load profiling.
- 12) Customer charges and tariffs for the respective provisions of default supply service shall be established as part of Default Supplier's rate design activities before the Commission. Such charges and tariffs shall include provisions related to Emergency Service.

SERVICE AND RATES SUBJECT TO COMMISSION JURISDICTION: All rates and service conditions under this Schedule are governed by the rules and regulations of the Public Service Commission of Montana and are subject to revision as the Commission may duly authorize in the exercise of its jurisdiction.

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